(6) He knew the essentials of the conspiracy in charge 16 but relied on the assurances given to him by his father that window-dressing was normal, and he thought that his father's wealth could absorb the wrongful loans.

(7) He knew generous dividends were paid by NBB to the minority shareholders.

(8) He thought of NBB as a private family bank controlled by his father and part of the wider group of Khoo companies also controlled by his father.

(9) He thought his father to be blessed with a Midas touch – as the evidence showed he was.

(10) His father's public reputation for immense wealth ran through the period of charge 1 – 1 January 1983 to 20 November 1986.

(11) Most of the letters bearing the signature of the appellant were drafted by his father or others on his father's instructions.

(12) He was the courier of his father's written instructions.

(13) He was of good character.

The gravamen of this appeal is that the trial judge failed to give due weight to those mitigating factors generally, and in particular to the appellant's previous good character and his lack of intention to make personal financial gain. Mr Ross-Munro adds to this what he says is the failure of the judge to give credit for no loss having been occasioned to anyone and, the legislation having provided for a maximum term of imprisonment of seven years for charge 16, a failure to give sufficient discount to the appellant for that which the trial judge termed 'his courageous plea of guilty'.

On the good character aspect, donning sackcloth and covering himself with ashes, Mr Ross-Munro has presented to us a series of authorities which were not brought to the attention of the trial judge. These relate to the 'clang of the prison gate' effect on a man such as Khoo Ban Hock. He has referred us to *Datuk Haji Harun bin Haji Idris & Ors*,[1] *R* v *Jacob*,[2] *R* v *Carr*[3] and *Siah Ooi Choe* v *PP*[4] in Singapore. He accepts that a custodial sentence is inevitable but submits that there is no necessity for a long period of imprisonment to restore public confidence; that we should consider what is the shortest sentence commensurate with the public interest given the nature and the circumstances of the appellant. In any event the discount for plea should be substantial and the question we should ask ourselves is: If there were a conviction after trial, what would have been the appropriate sentence (see *R* v *Boyd*[5]). Mr Corkery has very helpfully drawn our attention to *R* v *Barrick*.[6]

The offences to which the appellant pleaded were grave; he held a high position of trust, a trust, whether old-fashioned Chinese family member or not, he grossly abused. The trial judge was fully aware of the quality and nature of the plea. He took, and rightly so, a serious view of the appellant's part.

Here there should be an element of deterrence in that a chairman of a would-be major bank must, in our judgment, receive such punishment as will in the public eye be a reflection of the gravity of his offence. Generally the Khoo group of companies benefited from the actions of the conspirators in the manner which I have indicated. While the appellant did not actually pocket cash, some of this benefit must have enured to him.

But, that having been said, Khoo Ban Hock did not, nor did he intend by his actions, to line his own pockets with public money. We accept that, for reasons we need not go into – there being civil litigation in progress – that the evidence of any loss to the public is neutral and that the benefit should be given to the appellant. In that sense the case is indeed an unusual one. We do not feel that, with respect, in his careful reasons on sentence the trial judge sufficiently reflected this aspect. We think that, bearing in mind also all the other mitigating factors, our interference is warranted.

The proper sentence, and it must be of some length, appears to us in all the circumstances to be one of three years' imprisonment.

Therefore we allow the appeal, set aside the sentence of four years passed on charge 16 and substitute therefor one of three years. The sentence on charge 1 is left undisturbed and will continue to be concurrent with that on charge 16.

Appeal allowed

Solicitors: *Bonds*.

Reported by *Ng Sheau Jiuan*

Re Alan Wong Hoi Ping

HIGH COURT (BANDAR SERI BEGAWAN) – PETITION NO 15 OF 1988
GODFREY J
15 JUNE 1988

Legal Profession – Admission as advocate and solicitor – Petition for – Petitioner previously convicted of criminal offences but convictions were subsequently quashed – Whether requirement of 'good character' was satisfied – Whether effect of certificates of good character was displaced – Legal Profession Act (Cap 132), s 4(b)

Words and Phrases – 'Good character' – Legal Profession Act (Cap 132), s 4(b)

This is an application by the petitioner to be admitted as an advocate and solicitor under s 4 of the Legal Profession Act (Cap 132) ('the Act'). In order to satisfy the requirement of good character as provided for under s 4(b) of the Act, the petitioner filed three certificates of good character in support of his application. The Attorney General opposed the application on the ground that the petitioner was previously convicted by the Singapore District Court for certain criminal offences. The convictions were subsequently quashed on appeal. The two

issues facing the court were whether the petitioner is a person of 'good character' and if so, whether the court ought to exercise its discretion for or against the petitioner.

Held, allowing the application: (1) 'Good character' in s 4 of the Act means both disposition and reputation so that if the petitioner appears, from the evidence on the petition, either to lack the qualities of integrity, honesty and the like which an advocate and solicitor ought to possess, or to have a bad reputation in these respects, he will be shown to want that 'good character' which he needs in order to satisfy the qualification.

(2) The certificates of 'good character' are, on the face of them, evidence of the good character of the petitioner. But they cannot be conclusive. However, based only on the law report of *Loh's* case,[1] the court is not entitled to hold that the petitioner is not of 'good character'.

(3) The court has a discretion whether to admit the petitioner. However, it has no material on which it can exercise its discretion against the petitioner. There is nothing to displace the effect of the certificates of good character which have been lodged on his behalf.

Cases referred to
1 *Loh Shak Mow* v *PP* [1987] 1 MLJ 362 (refd)
2 *Plato Films Ltd* v *Speidel* [1961] AC 1090 (refd)
3 *Hollington* v *Hewthorn & Co* [1943] KB 587 (refd)

Legislation referred to
Interpretation and General Clauses Act (Cap 4) s 24(1)
Legal Profession Act (Cap 132) ss 3(a), 4, 5, 6, 14(1)

Sarjeet Singh for the petitioner.
Ivan Leong (Acting Principal Counsel) for the Attorney General.

Cur Adv Vult

Godfrey J: This is an application by Alan Wong Hoi Ping (Mr Wong) to be admitted as an advocate and solicitor in accordance with the provisions in that behalf contained in the Legal Profession Act (Cap 132) ('the Act').

Mr Wong has had conferred upon him the degree of Bachelor of Laws in the University of Singapore, and is accordingly a 'qualified person' for the purposes of the Act: see s 3(a). Section 4 provides:

> The Chief Justice may, at his discretion, and subject to the provisions of the Act, admit as an advocate and solicitor any qualified person who –
>
> (a) has attained the age of 21 years;
> (b) is of good character; and
> (c) has, to the extent that he is not exempt therefrom, served satisfactorily such manner and period of pupillage as may be prescribed for qualified persons.

In the temporary absence of the Chief Justice, I am entitled to exercise the powers and duties of the Chief Justice under that section: see the direction dated 8 August 1987 given by the Minister for Law under s 24(1) of the Interpretation and General Clauses Act (Cap 4) and gazetted on 26 September 1987.

An application under s 4 must be made by petition, verified by affidavit exhibiting, among other things, two recent certificates as to the good character of the applicant: see s 5. The papers must be served on the Attorney General. If he intends to object to any petition, he must serve on the petitioner a notice of objection setting out in brief terms the grounds of objection: see s 6.

In the present case, the Attorney General served a notice of objection on the ground that Mr Wong 'failed to satisfy the requirement that he is a person of good character as provided for under s 4(b)' of the Act.

In fact, the papers filed in support of Mr Wong's application include:
(1) a certificate of good character from Richard Ang Shu Kee dated 11 March 1988;
(2) a certificate of good character from Wilfred Yeo Chuan Ann, also dated 11 March 1988;
and a certificate by Sarjeet Singh, who practises as an advocate and solicitor here (and who appeared for Mr Wong before me) dated 26 March 1988.

It is a requirement of s 5(4) of the Act that the petition and certificates referred to in s 5 shall be in the prescribed forms. The prescribed form of certificate of good character is Form 2. None of the certificates of good character lodged in the present case follow the prescribed form, as they should have done; but no point was taken on this, and the discrepancies between the certificates of good character lodged and the prescribed form may, in my judgment, be disregarded as too insignificant to be material.

The substantive objection raised by the Attorney General against Mr Wong is founded on his involvement in a case called *Loh Shak Mow* v *PP*.[1] It appears from the report (no other materials were placed before me by the Attorney General) that in that case Mr Wong was charged with and convicted on three charges of criminal breach of trust as an agent and one charge of dishonestly retaining stolen property; he appealed against his convictions, and they were quashed. On appeal, it was said of Mr Wong that at the trial:

> he was confronted by grossly prejudicial and irrelevant evidence. At the end of it he was convicted and sentenced to 12 months' imprisonment on the basis that he was a party to the whole conspiracy to cheat with which he was not charged and in which he was not named. He must have spent the most miserable anxious year of his life waiting for the appeal to be heard. He had to leave the legal firm where he was a partner and had a lucrative practice. I am told that he practised on his own and that soon came to an end as he had few clients and that he is now not doing anything. He has endured quite enough. I do not order a retrial, to do so would be inequitable.

Mr Wong's discharge on appeal cannot be considered the equivalent of a finding of not guilty. For what it is worth, Mr Wong was, at first instance, found guilty as charged;

but, if he had had a fair trial, he might for all I know have been acquitted. In these circumstances, the questions which I have to answer are accordingly these:

(1) Is Mr Wong 'of good character'?
(2) If so, ought I to exercise my discretion for or against his admission?

(If (1) is answered in the negative, (2) of course does not arise.)

As to (1), I must first consider what in its context the expression 'of good character' means. What is a man's 'character'? It may be his disposition, what he in fact is; or it may be his reputation, what other people think he is: see, for example, *Plato Films Ltd* v *Speidel*[2] especially the speech of Lord Denning at pp 1137 and 1138. For the purposes of the qualification (b) in s 4, in my judgment, it means both his disposition and reputation, so that if the petitioner appears, from the evidence on the petition, either to lack the qualities of integrity, honesty and the like which an advocate and solicitor ought to possess, or to have a bad reputation in these respects, he will be shown to want that 'good character' which he needs in order to satisfy the qualification.

The certificates of 'good character' are, on the face of them, evidence of the good character of the petitioner; that, indeed, is why they are required. But they cannot be conclusive. Is there anything to displace them? In particular, am I bound, or even entitled, to hold, on the basis only of the law report of *Loh's* case, that Mr Wong is not of 'good character'? In my judgment, I am not. At common law, even a conviction of a criminal offence is regarded as no more than the expression of the opinion of the tribunal as to the guilt of the accused: see *Hollington* v *Hewthorn*.[3] And a discharge is not even that, though the discharge be on technical rather than substantive grounds.

It is true that in the present case Mr Wong was convicted at first instance of the offences with which he was charged. But what is the worth of the opinion of the tribunal of first instance, when it was arrived at at the conclusion of a trial at which (according to the report) 'he was unfairly and improperly cross-examined as to the offences with which he was not charged' and 'he was confronted by grossly prejudicial and irrelevant evidence.' The answer must be: nothing.

Since there is nothing else, apart from the report, which the Attorney General urges against Mr Wong's 'good character', I do not think that I am entitled to hold that Mr Wong has 'failed to show that he is of good character'.

So I answer question (1) in the affirmative; and I turn to (2).

I have a discretion whether to admit Mr Wong or to refuse to admit him. But I have no material on which I can exercise that discretion against Mr Wong. Given, as I have held, that he is qualified to be admitted, and the absence of any legitimate ground for doing otherwise, I think I must exercise my discretion in his favour. There is nothing to displace the effect of the certificates of good character which have been lodged on his behalf.

Nothing in this judgment has or is intended to have any effect upon the question whether Mr Wong is qualified to apply for a practising certificate. The qualifications, under Part II of the Act, for admission as an advocate and solicitor and, under Part III of the Act, for obtaining a practising certificate, are distinct matters. It may, however, not be out of place for me to point out that under an amendment made on 24 September 1987 to s 14(1) of the Act, an advocate and solicitor is not qualified to apply for a practising certificate unless, among other things, he is or is about to be ordinarily resident in Brunei; and that, on the evidence before me, Mr Wong does not appear to satisfy.

Order accordingly.

Solicitors: *Sarjeet & Co.*

Reported by *Ng Sheau Jiuan*

Re Joseph Linus

HIGH COURT (BANDAR SERI BEGAWAN) – ORIGINATING MOTION NO 24 OF 1988
GODFREY J
9 JUNE 1988

Legal Profession – Ad hoc admission as advocate and solicitor – Application for – Whether familiarity with facts of case and conducting preliminary stages of case constitute 'special experience' – Legal Profession Act (Cap 132), s 7(1)

Words and Phrases – 'Special experience' – Legal Profession Act (Cap 132), s 7(1)(c)

The applicant made an application under s 7 of the Legal Profession Act (Cap 132) ('the 'Act') to be admitted as an advocate and solicitor so as to represent his client in a forthcoming case. The applicant submitted that he has 'special experience' within the meaning of those words as used in s 7(1)(c) of the Act in that he has appeared for his client on the first mention date of his case, has taken detailed instructions from him regarding the charge he is facing and that his client wants him to represent him without any change of counsel. These circumstances thereby made him more familiar with the facts of the case than any other advocate or solicitor whether in Brunei or elsewhere. The Attorney General opposed the ad hoc admission of the applicant, contending that the provisions of s 7(1)(c) are designed to enable a person to obtain admission for any case given that he has special qualifications or experience in the sort of work involved in the case for which admission is sought.

Held, dismissing the application: (1) The expression 'special qualifications or experience' is plainly not related to qualifications or experience gained in the course of conducting the